



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,351	09/17/2001	Nathan T. Lee	11576.56US01	2171
21127	7590	10/25/2005	EXAMINER	
KUDIRKA & JOBSE, LLP ONE STATE STREET SUITE 800 BOSTON, MA 02109			THALER, MICHAEL H	
			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 10/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

e

Office Action Summary	Application No. 09/955,351	Applicant(s) LEE ET AL.	
	Examiner Michael Thaler	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 3-8 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 9, 10, 12-16, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3731

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 18, 2005 has been entered.

Claims 3-8 and 11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 8.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In line 3, there is no antecedent basis for "the longitudinal overlap".

Claims 1, 12, 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Pinchasik et al. (5,449,373). Pinchasik et al. disclose a stent body having a plurality of adjacent circumferential support structures (each of the undulating members which form segments 102 and which are arranged in pairs) including longitudinal struts interconnected at apex portions,

Art Unit: 3731

and circumferential connecting struts (e.g. 112) interconnecting a plurality, but not all of the adjacent circumferential support structures (since the paired circumferential support structures are directly connected together and thus are not interconnected by the circumferential connecting struts 112).

Claims 2, 14, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pinchasik et al. (5,449,373) in view of Wijay (5,824,059). Pinchasik et al. fail to clearly show adjacent circumferential support structures being offset such that the apex portions on one side of a support structure are positioned intermediate the apex portions on a facing side of an adjacent support structure (claim 2) or the adjacent apex portions being circumferentially staggered (claims 14 and 19). However, Wijay, in the embodiments of figures 3 and 4, teaches that adjacent circumferential support structures should be offset such that the apex portions on one side of a support structure are positioned intermediate apex portions on a facing side of an adjacent support structure to circumferentially stagger them. This staggered arrangement has the self-evident advantage of providing a more continuous support to the blood vessel around its circumference. It would have been obvious to so orient the circumferential support structures of Pinchasik et al. so that it too would have this advantage.

Art Unit: 3731

Claims 1, 2, 10, 12, 13, 16 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Wijay (5,824,059). Wijay, in figures 1, 2 and 5, discloses a stent body having a plurality of adjacent circumferential support structures 12, 14, 16, 18 including longitudinal struts and apex portions, the apex portions forming junctions between adjacent longitudinal struts, and a plurality of circumferential connecting struts (the pair of connecting struts 40, 42 described in col. 5, lines 3-8) interconnecting a plurality (i.e. only support structures 14, 16 and 18), but not all of the adjacent circumferential support structures 12, 14, 16, 18 (since the pair of connecting struts 40, 42 does not interconnect circumferential support structures 12 and 14). As to claim 2, the adjacent circumferential support structures are offset in the embodiment of figure 4 of Wijay. As to claim 10, the longitudinal struts which are directly connected to the circumferential connecting struts 40, 42, 46 (figures 1, 2 and 5) are longer than the other struts by an amount equal to the thickness of the wire of strut 46.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wijay (5,824,059) in view of Pinchasik et al. (5,449,373). Wijay fails to disclose the circumferential connecting struts joining first and second support structures extending in a first direction and the circumferential

Art Unit: 3731

connecting struts joining second and third support structures extending in a second direction. However, Pinchasik et al. teach that the circumferential connecting struts 112 should alternate in their direction in order to minimize rotational displacement of the stent members and the delivery balloon (col. 3, lines 44-51). It would have been obvious to alternate the direction of the Wijay circumferential connecting struts so that it too would have this advantage.

Applicant's arguments filed August 18, 2005 have been fully considered but they are not persuasive for the reasons set forth above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Application/Control Number: 09/955,351

Page 6

Art Unit: 3731

mht

10/18/05

A handwritten signature in black ink, appearing to read "Michael Thaler", written in a cursive style.

MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731